83-796

NO. _____

In The

SUPREME COURT
OF THE UNITED STATES

OCTOBER TERM, 1983

JERRY HALLORAN, Petitioner,

vs.

DISPLAY CORPORATION INTERNATIONAL,
(RE-NAMED DCI MARKETING, INC.)
a Wisconsin Corporation, and
LLOYD A. SAUER, Jointly and Severally,
Respondents.

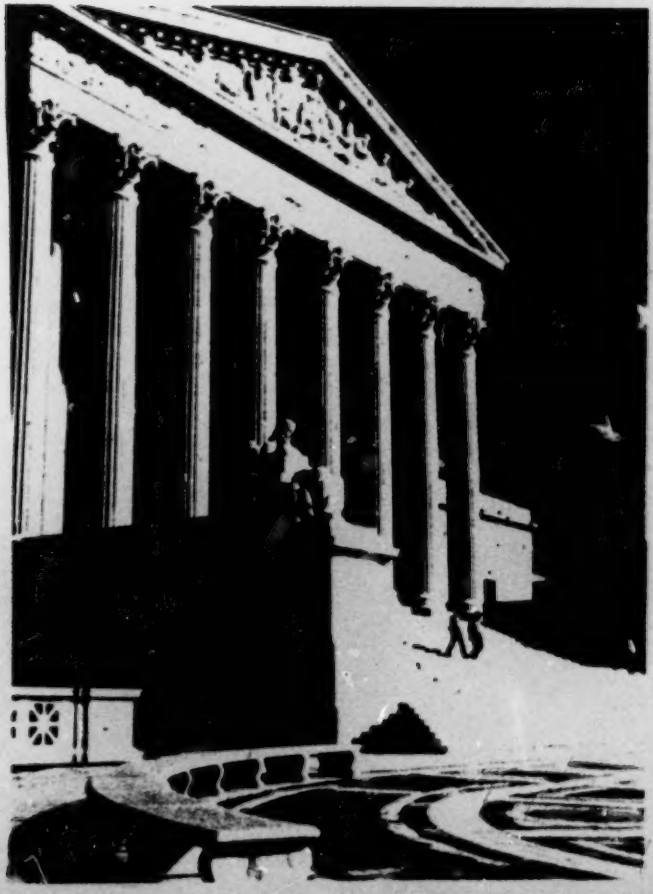
ON APPEAL FROM THE SIXTH CIRCUIT
COURT OF APPEALS

PETITION FOR WRIT OF CERTIORARI

JERRY HALLORAN
Petitioner Pro Se

Residence:
18425 South Drive, #156
Southfield, Michigan 48076

The Supreme Court of the United States



QUESTIONS PRESENTED FOR REVIEW

1. Whether the court erred in granting order in limine over petitioner's objections.

2. Whether the court erred in granting a special verdict over petitioner's objections.

The order in limine and the granting of the special, rather than general, verdict or combination of the two, obfuscated the issues and leads to question three.

3. Whether the court erred in its acceptance of the special verdict questions, as to format and content. They had been prepared, proposed and printed by respondent's counsel. All this, over petitioner's objections.

4. Whether the court erred in its instructions to the jury and in its refusal to cooperate with them to solve their dilemma.

5. Whether the Appeals Court erred in not granting appeal for a new trial and/or oral arguments and, lastly, for denying petition for rehearing en banc.

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SUPREME COURT OF THE UNITED STATES

NO. A-165

JERRY HALLORAN,
Petitioner,

vs.

DISPLAY CORPORATION, INTERNATIONAL, Et al.

ORDER EXTENDING TIME TO FILE PETITION FOR WRIT OF CERTIORARI

Upon Consideration of the application of petitioner,

It Is Ordered that the time for filing a petition for writ of certiorari in the above entitled cause be, and the same is hereby, extended to and including November 13, 1983

/s/ William J. Brennan, Jr.
Associate Justice of the Supreme Court of the United States

Dated this 9th
day of September, 1983

OPINIONS BELOW

Judgment of the district court dismission action is dated May 12, 1980. District court order denying new trial dated July 21, 1980. October 27, 1980 the district court got back into the act and granted appellee's motion to force appellant (petitioner) to produce full transcript. (This would have been prohibitively costly (approximately $3,000.00) and served no useful purpose in the filing. Just part of their continuing harassment.)

The Sixth Circuit Court of Appeals order dated August 11, 1981 denied appellee's (respondent) motion to dismiss because petitioner had not ordered full transcript. This order further directed court reporter to furnish trial transcript ordered and paid for over a year earlier be produced by September 14, 1982. It was another six months before this took place and then without the transcript on the special verdict question held in chambers on April 23, 1980.

On September 14, 1982 C. A. issued order granting 21 days extension which order was not received by petitioner until the 21st day as he was out of town.

February 1, 1983 C. A. order denying motion to reinstate appeal. March 1, 1983 granting motion for extension of time (to March 11) to file a petition en banc.

June 16, 1983 C. A. order denying petition for rehearing.

JURISDICTION

The date of the Order of the United States Court of Appeals for the Sixth Circuit sought to be reviewed is June 16, 1983. The jurisdiction of this court is invoked under Rule 17.1 of the Supreme Court. Also, under the first, thirteenth and fourteenth amendments of the U. S. Constitution. Specifically, freedom of communications, due process and equal protection. The diversity of citizenship is the basis for the original filing in the Federal Court.

STATUTE INVOLVED

The Federal Rules of Evidence, Article I, Rule 101 to 408 (as applicable). Federal Rules of Civil Procedure, Special Verdicts Rule 49, Sections 2505-2510.

STATEMENT OF THE CASE

We must go back to August, 1952 to put this case in the proper perspective. At that time Jerry Halloran, Petitioner Pro Se, joined Milwaukee headquartered Display Corporation as an account executive working out of the Chicago office. After three years there and over five years at headquarters he was transferred to the Detroit office to handle the General Motors business and develop new business with them as well as other accounts.

In 1960-61 Display Corporation was doing approximately $400,000. After over 15 years of successfully handling the GM account with a special emphasis on the Cadillac and Buick accounts, the business had increased to over $3,000,000. Then, in January, 1975, Halloran was terminated by company president Lloyd A. Sauer with no reason given. Two days later Halloran discovered that his replacement was Tom Estes, son of the then GM President Pete Estes. This position was obtained without an interview, no resume submitted, and no references given. All this, 100 percent against Display Corporation's (or any company for that matter) hiring policy. In addition to getting the position Estes increased his income between 400 and 500 percent in 1975 over 1974. The ordinary account executive would be paid a draw of about $30,000 against earned future commissions. He made about $150,000 the first year and went up from there until he was forced to resign in August, 1981 when Federal indictments were issued charging false statements, fraud and forgery. He was sentenced to three years in early 1982 and started serving time at Marion, Illinois before a little intervention got him moved to Englin AFB minimum security facility.

Halloran's termination in 1975 was without severance pay, vacation pay or any remuneration for his almost 23 years service with the company. Further,

a covenant not to compete clause that had been forced into his employment contract. Knowing Sauer's previous activity lest he not be paid monies due him or his own generated retirement money. Another serious problem being in Detroit is the GM spectre. It hangs heavy. Four separate companies told petitioner they wanted to use his marketing and communications experience but were afraid of GM reprisals.

In May, 1982 a letter from Halloran's counsel to Sauer requesting some type of severance evoked a "no" and "go ahead and sue."

The case we filed in July, 1976 with motions here, requests there, along with delays and harassment, came to trial in April, 1980. The rest is history recorded herein. A newly appointed judge, an order in limine or a special verdict, individually, could be tough to cope with. But, put them all together and it became ludicruous.

From appearance at the district court hearing on motion for new trial Petitioner has been Pro Se. Original counsel was on contingency and felt he had enough after four years. The petitioner in bad economic straits did not have the money to engage counsel, but felt his efforts might help rectify this grave injustice and help others as well.

indications had been promised the commissions. Under the long established hiring policies of Display Corporation a new account executive would only be promised a minimum draw against future commissions generated from his own efforts. Never, before Estes, was anyone promised such money up front.

Re the second Count. The covenant not to compete and the accompanying deprivation of the right to make a living was cast into the nether world by the order in limine. There was no explanation for this or the preceding count unless the jury knew exactly who replaced the petitioner.

Now to the points of law for the first question presented for review. Whether the court erred in granting order to limine over petitioner's objections.

Under Article I. General Provisions of the Federal Rules of Evidence Rule 102 states, "These rules shall be construed to secure fairness in administration, elimination of unjustifiable expense and delay, and promotion of growth and development of the law of evidence to the end that the truth may be ascertained and proceedings justly determined."

Under FRE Rule 103, Rullings on Evidence (a) Effect of erroneous ruling may be predicated upon exclusion of evidence when a substantial right of the party is affected and (1) the objection to strike appears

of record. Contra: U.S. v. Cook, 608 F.2d 1175 (9th Circ. 1979 (en banc).

Under FRE Rule 104(b) of Article I. Relevancy conditioned on fact. Evidence shall be admitted upon or subject to the introduction of evidence sufficient to support a finding of the fulfillment of the condition.

Also, the very definition of "Relevant Evidence" in FRE Rule 401 states, "Relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence. FRE Rule 402 states basically that all relevant evidence is generally admissible. U.S. v. Dupee, 569 F.2d 1061 (9th Cir. 1975).

On the contra side FRE Rule 403 deals with unfair prejudice outweighing probative value, confusion of the issues, misleading the jury, or by consideration of undue delay. The order in limine contrarily did all of these things. And that alludes to the Freudian slip of respondent's counsel when speaking of the potential for prejudice earlier in the argument. There was no mention of unfair prejudice. U.S. v. Slade, 78-1333 (D.C. Circ. Mar 4, 1980) (Order in Limine Abuse of Discretion) Clark-Boardman. FRE Digest 8/8373.)

Finally, on the contra side FRE Rule 408 has to do with evidence being relevant to prove that the

conduct of the person or organization on a particular occasion was in conformity with the habit or routine practice. Such was not the case in hiring Tom Estes. In hiring each of the two previous account executives at least 12 individuals, out of a greater number who submitted resumes and references, were brought into Milwaukee for a personal interview and look-over. In addition, their references were checked in great depth. Estes did none of this.

The second question presented for review inquires whether the court erred in granting a special verdict over petitioner's objections. The transcript of these proceedings, which were held in chamber, was ordered by the petitioner. Another transcript of proceedings in chamber (jury's request for clarifications plus their request for re-writing or amending the special verdict questions) was ordered and received. But the court reporter said the special verdict question proceedings could not be located. However, the furnished form entitled "Special Verdict" (in Appendix) shows a court date-time stamp of April 23 at 4:58 p.m. '80.

Under Rule 49 B. Special Verdicts Sec. 2505, West Publishing's Federal Practices and Procedures it states the court should notify counsel in advance of the determination to use special verdicts. Certainly not just before the jury instructions are given. R. B. Co. v Aetna Ins. Co. C. A. 5th 1962, 299 F 2d 753; Clegg v. Hardware Mutual Cas. Co. C. A. 5th 1959 264 F 2d 152, 157.

Also, under Sec. 2505. "A party may not demand a special verdict as a matter of right." But it appears rather coercive to make the request of the court and immediately produce in finished form the special verdict interrogatories. "The rule is a grant of authority to the judge. Indeed it makes no reference to a motion by counsel. Lawyers of course can suggest to the court the use of one form of verdict or another, but these are no more than suggestions, and the judge is the one empowered to decide. Wright The Use of Special Verdicts in Federal Court, 1965, 38 F. R. D. 199, 203.

One noted scholar [Green] regards the use of special verdicts as exceedingly treacherous, and Justices Hugo L. Black and William O. Douglas have called for repeal of Rule 49, saying it is but another means utilized by courts to weaken the constitutional power of juries and to vest judges with more power to decide cases according to their own judgments. O'Callaghan Federal Practice and Procedures 1982, 497-8. "Scholar Green", The Submission of Special Verdicts, etc. 1963, 17 U. Miami L. Rev 469: ***Should be repealed*** 376 U.S. 861 83 S. Ct. 13, 45, 31 R.R.D. 617, 618-19 (dissenting from adoption of the 1963 amendments to the Federal Rules of Civil Procedure).

One of the reasons for utilization of Rule 49(a) is to keep the jury in the dark as to the effects

of their answers. "Thus the trial judge who thinks it helpful for the jury to know the effect of its answers has the simple recourse of refusing to submit under Rule 49(a) and resorting instead to one of the other two forms of submissions, where a general charge is not only proper but required." O'Callaghan Federal Practices and Procedures 1982, Rule 49, 2509 512.

While a circuit judge, Associate Justice of the Supreme Court of the United States Harry Blackmun stated, "Under Rule 49(b) the court could have submitted written interrogatories with forms for a general verdict and, of course, it could have submitted the case on a general verdict. It seems both illogical and unrealistic, particularly in the light of the discretionary aspect of the rule, to say that, because a special verdict was employed, nothing in the charge must intimate to the jury the legal effect of their answers." Lowery v. Clouse C. A. 8th 1965, 348 F 2d 252, 261, citing Barron & Holtzoff (Wright ed.).

Question three has to do with the acceptance of the special verdict questions as to format and content, as well as to their preparation, proposal and furnishing of forms for the jury's deliberations. These were actually presented earlier the same day just before the jury was charged. Discrimination and foresight are usually desirable qualities in

the administration of law. West - Fed Pract. and Proced., 498. Neither discrimination or foresight appeared to be utilized by the court as this entire activity was undertaken by respondent's counsel over petitioner's counsel's objections.

In this instance, the wrong party exercised the foresight and the court did not exercise the discrimination.

Special verdict interrogatory one stated: "Did Jerry Halloran sell the 1976 Cadillac Merchandising Aids Program?" Never did I sell an announcement program to Cadillac. This business was handled on a no-commitment basis. This means that we received an approval to produce the program with no commitment from Cadillac as to quantity or elements or dollar value. Hence, the wording of the question was fallacious and misleading. The court, in its lack of discretion as to number and form of issues, failed to cover the case fairly. Scott v. Isbrandsten Co., C. A. 4th, 1964 327 F.2d 113, 119, and Thorp v. American Aviation & General Ins. Co., C. A. 3d, 1954 212, F.2d 821, and on the subject of commission entitlement Reed v. Hirdzel, 352 Mich 1958, is relevant.

A "Yes" answer had to be given to the fallacious question (1), or the confusing question (2) before being able to answer question (3). The first two questions referred to one of the remaining counts, namely commissions. Question (4) was of such a

nature that it was impossible for the jury to have a decision on the facts presented along with the confusing jury instructions.

"When the trial court submits issues to jury by special interrogatories, although vested with wide discretion as to their form and substance, all material factual issues should be covered by questions submitted, but the same issue need not be twice presented." Angelina Cas. Co. v. Bluitt, C. A. 5th 1956, 235 F.2d 764R. H. Baker & Co. v. Smith-Blair, Inc., C.A. 9th 1964, 331 F.2d 506, 508, citing Barron & Holtzhoff (Wright edition).

The confused and perplexed jury tried to make up for lack of court discretion and to rectify their dilemma they asked one question of the court in chamber. Secondly, they asked for a clarification on the word "procuring", in question two. The court, respondent and petitioner wrote their individual versions. The court's version held sway but did not help the jury, as it wasn't in plain English. So, they asked a third and fourth question of the court. "Is there any way to amend question two or is it possible to add a quotation?" Signed W. Scott Niblack (foreperson). (From transcript April 24, 1980 0900, page 10 2-4.)

Over petitioner's objections, the court refused to cooperate and responded to the jury's fourth question: "No. Use your best judgment on the questions submitted to you." (From transcript April 24, 1980, Page 10 6-7.)

Additionally, "Reversal required where issues submitted contained such conflicts and inconsistencies as to make it impossible for the jury to render a verdict in accordance with the convictions it held." Martin v. Gulf States Utilities Co., C. A. 5th 1965, 344 F.2d 34.

Under Rule 49, Sec. 2509, dealing with instructions to jury: The rule states that the court shall give to the jury such explanation and instruction concerning the matter thus submitted as may be necessary to enable the jury to make its findings upon each issue. West, Fed Pract & Proced., 510. ****Forms of verdict which so interwove the two causes of action as to virtually preclude separating the two and presenting a finding of merit or lack of merit as to each were erroneous. Hager v. Gordon, C. A. 9th, 1949, 171 F.2d 90.

From the April 24, 1980 Transcript Page 10 8-15

Mr. Prather: And the plaintiff will object to that, as I did object to the special verdict form. And I believe that the jury should be permitted to decide the factual issues in this case not respected to the four questions that are set forth in the special verdict form.

The Court: Defendant has no comment?

Mr. Gowling: No. I think the Court is doing the right thing.

(End of chamber proceedings.)

The Court by not 1) cooperating with the jury, 2) changing the verdict to 49(b), or 3) changing to a general verdict, was the ultimate undoing. The last opportunity for the Court to rectify the compounding errors slipped by. It could have been so easy.

This deplorable action on the part of the district court leads us to the final question presented for review. Whether the appeals court erred in not granting appeal for new trial and/or oral arguments and, lastly, denying petition for rehearing en banc. Major points covering error hence reversibility have been covered in the first four questions presented for review.

CONCLUSIONS AND PRAYER

Respondent respectfully requests that the lower court findings be reversed so that an enlightened jury can be permitted to decide the factual issues without the restrictions of an order in limine and a special verdict (49a).

Respectfully submitted,

Residence:
18425 South Drive
#156
Southfield, MI
48076

Jerry Halloran
Petitioner Pro Se

NO. 80-1666

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

(Filed June 16, 1983)
John P. Hehman, Clerk

JERRY HALLORAN,

Plaintiff-Appellant,

v.

DISPLAY CORPORATION INTERNATIONAL, Et Al.

Defendant-Appellees.

ORDER

BEFORE: LIVELY, Circuit Judge; PHILLIPS and PECK, Senior Circuit Judges.

The Court not having voted in favor of a rehearing en banc, the petition for rehearing heretofore filed by the plaintiff has been referred to the panel which heard the appeal.

Upon consideration, the court concludes that the issues raised in the petition for rehearing were fully considered upon the original submission and decision of the appeal. Accordingly, the petition for rehearing is denied.

Entered by order of the Court

/s/ John P. Hehman
CLERK

No. 80-1666

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

Filed Mar 1 1983
John P. Hehman, Clerk

JERRY HALLORAN,

Plaintiff-Appellant,

v.

DISPLAY CORPORATION INTERNATIONAL, et al,

Defendants-Appellees

ORDER

This case comes before the Court upon the of the appellant for an extension of time to file a petition for reconsideration en banc of the Court's order declining to reinstate his appeal.

Upon consideration, it is ORDERED that appellant be given leave until March 11, 1983 to file a petition in compliance with the requirements of Rule 14, Rules of the Sixth Circuit.

ENTERED BY ORDER OF THE COURT

/s/ John P. Hehman
John P. Hehman, Clerk

NO. 80-1666

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

Filed Feb 1 1983
John P. Hehman, Clerk

JERRY HALLORAN,

Plaintiff-Appellant,

v.

ORDER

DISPLAY CORPORATION INTERNATIONAL, Et Al,

Defendants-Appellees

BEFORE: LIVELY, Circuit Judge, PHILLIPS and BECK, Senior Circuit Judges

The pro se appellant herein filed his appeal in October, 1980. Subsequent thereto, frequent problems, confusions and delays were experienced at every step of the appellate proceedings, causing appellant to seek numerous extensions of the deadline for filing his brief on appeal. After an extended period of giving appellant every possible consideration, the Court set a final deadline for the filing of appellant's brief and in October 1982 dismissed the appeal after appellant failed once again to meet the deadline.

Following this dismissal appellant wrote again to seek reinstatement of the appeal, claiming that the Court failed to receive his latest request for additional time. Neither the Court nor the

No. 80-1666

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

Filed AUG 11 '81
John P. Hehman, Clerk

JERRY HALLORAN)
)
Plaintiff-Appellant)
)
v.) ORDER
)
DISPLAY CORPORATION INTER-)
NATIONAL, et al.)

Defendants-Appellees

This matter is before the Court upon appellees' motion to dismiss appeal because of appellant's failure to timely order the full trial transcript.

Appellant has filed with the Court a document entitled "Second Appeal for New Trial and Request for Transcript Ordered" and a memorandum clarifying this request.

Relying on appellant's representation to the Court that appellant intends to raise only the following issues on appeal:

1. The district court's alleged error in granting appellees' motion in limine;

2. The district court's alleged error in granting a special verdict;

3. Alleged error in the court's instructions to the jury, and:

4. The district court's alleged error in refusing to grant the jury request to amend or rewrite the special verdict questions.

And it appearing that appellant has ordered and paid for the transcript relating thereto,

And it further appearing that appellant has abandoned his prior intent to argue on appeal that the decision of the trial court is against the weight of the evidence,

It is ORDERED that the motion to dismiss be and it hereby is denied.

It is further ORDERED that the district court reporter be directed to file with this Court on or before September 14, 1981, those portions of the trial transcript designated and paid for by the appellant.

It is additionally ORDERED that appellant shall file his appellate brief and joint appendix with this Court on or before September 21, 1981 confining the arguments therein to the issues particularized in this order.

It is ORDERED that appellee shall file its appellate brief with this Court on or before October 21, 1981.

ENTERED BY ORDER OF THE COURT

/s/ John P. Hehman
John P. Hehman, Clerk

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JERRY HALLORAN,

Plaintiff

-vs-

Case No. 671-523
JUDGE ANNA DIGGS-TAYLOR

DISPLAY CORPORATION INTERNATIONAL, a Wisconsin corporation, and LLOYD A. SAUER, jointly and severally,

Defendants.
_____/

ORDER

At a session of said Court, held in the United States District Court, Eastern District, Southern Division, ON 27 OCT 1980

PRESENT: Honorable Anna Diggs-Taylor

This matter having come before the Court and the Court having heard arguments by counsel for Appellees, Appellant having been notified but not present and the Court having reviewed the Memorandum of Law filed by Appellee herein and the Court having otherwise been fully advised in the premises;

IT IS HEREBY ORDERED AND ADJUDGED that Appellant shall order the full transcript of the

trial including but not limited to Opening Statements, all testimony by witnesses, and Closing Argument;

IT IS FURTHER ORDERED AND ADJUDGED that in accordance with Rule 10(b), F.R. App. Pro. the parties shall make satisfactory arrangements with the report for payment of the cost of the transcript.

/s/ ANNA DIGGS TAYLOR
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JERRY HALLORAN

Appellant,

vs.

NO. 671-523

JUDGE ANNA DIGGS-TAYLOR

DISPLAY CORPORATION INTERNATIONAL, a Wisconsin Corporation, and LLOYD A. SAUER, Jointly and Severally,

Defendants.

_____/

APPEAL FOR NEW TRIAL

APPELLANT REQUESTS the Sixth United States Circuit Court of Appeals to reverse the order and judgment of the Honorable Anna Diggs-Taylor, U. S. District Judge, Eastern District of Michigan, Southern Division, denying motion for new trial entered thereon July 21, 1980, and to grant a new trial on the following grounds:

1. That the decision is against the great weight of the admissible and non-admissible evidence.

2. That the court erred in granting defendants Motion in Limine. In light of recent U.S. Supreme Court Ruling, "Motion In Lumine", to enlighten jurors, should be the order.

3. That the court erred in refusing to instruct the jury in the manner requested by appellant.

4. That the court erred in allowing the use of a special verdict, with questions drafted by the defense, over appellant's objection, in order to award damages, jurors requested.

1) Clarification on terminology in special verdict questions. Granted.

2) To re-write questions or change terminology. Not granted.

3) To draft their own questions. Not granted.

5. That the court erred in denying Motion for New Trial.

/s/ Jerry Halloran
Jerry Halloran, Appellant
18425 South Drive, Apt. 156
Southfield, Michigan 48076
(313) 646-1987/646-2200

DATED: August 18, 1980

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JERRY HALLORAN,

Plaintiff,

vs.

NO: 671-523

JUDGE ANNA DIGGS-TAYLOR

DISPLAY CORPORATION INTERNATIONAL, a Wisconsin corporation, and LLOYD A. SAUER, jointly and severally,

Defendants.
_____/

ORDER

At a session of said Court held in the United States District Court, Eastern District, Southern Division, ON 21 Jul 1980

PRESENT: Honorable Anna Diggs-Taylor

This matter having come before the Court and the Court having heard arguments, and the Court having reviewed the memorandum of law filed by Plaintiff's herein and the Court having otherwise been fully advised in the premises;

IT IS HEREBY ORDERED AND ADJUDGED that Plaintiff's Motion for New Trial and is hereby denied.

/s/ Anna Diggs Taylor
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JERRY HALLORAN

Plaintiff,

-vs- Case No. 76 71523

DISPLAY CORPORATION INTERNATIONAL,

Defendant

_____/

JUDGMENT

This action having come on for trial before the Court and a jury, Honorable Anna Diggs Taylor, District Judge, presiding, and the issues having been duly tried and the jury having duly rendered its verdict,

IT IS ORDERED AND ADJUDGED, that the Plaintiff take nothing, that the action be dismissed on the merits, and that the Defendant, DISPLAY CORPORATION INTERNATIONAL recover of the Plaintiff, JERRY HALLORAN, its cost of actions.

Dated at Detroit, Michigan, this 12th day of May, 1980.

/s/ ANNA DIGGS TAYLOR
District Judge

December 27, 1982

Mr. John P. Hehman, Clerk
United States Court of Appeals
For the Sixth Circuit
U. S. Post Office and Courthouse Building
Cincinnati, Ohio 45202

Re: Case No. 80-1666
Jerry Halloran v. Display Corporation International, et al.

Ordinarily, Mr. Hehman. . .

. . .in the course of human events the appellee response (dated November 22, 1982) would not deserve an answer. But, I find that things aren't ordinary in dealing with certain members of the legal profession. More often than not it is the antithesis of the way I was brought up, trained and abide by the golden rule.

Honesty, integrity and fairness are traits that I value and uphold. With this in mind I respond.

The reason for the requests for enlargement of time were not my doing. They were necessitated by the almost complete disregard of the court's orders by the court reporter to furnish the transcripts ordered and paid for. This went on for over one and a half years. It took additional time to ascertain that a transcript of one key element, in chamber, was not recorded.

My letter dated October 5, 1982, was sent to the courts. On checking with Judy King at the Court she indicated mis-filings are a major problem and we are not the only victims. She said to send a copy of the letters, which we did, along with a cover letter on October 22. I certainly had no way of knowing my letter had been mis-filed until I checked on it with Ms. King.

My experience in filing a brief for appeal before the Circuit Court, needless to say, is extremely limited. But, at least I know that it is not necessary to cite cases and authorities in the brief. Thus, it is not necessary to have a table of contents. The only law I cited was Article XIV, Section 1, of the U. S. Constitution.

The response, with its judge and jury, is filled with inaccuracies. I will cite just one of the more blatant.

Namely, "Appellant fails to point out that this motion (Motion in Limine) was granted because all witnesses testified that Appellant had already been terminated before Tom Estes was even contacted for his job." This is not a valid contention. The motion was granted before witnesses appeared.

Included among the witnesses was Tom Estes. The truth has been known to elude him as shown in the

enclosed four counts of a ten count federal indictment.

Three of the other 7 counts had to do with interstate transportation of money taken by fraud. These were checks payable to Display Corporation International in amounts of $40,000, $17,000 and $25,000. These checks were transported in 1979-80. One, just after Estes appeared as a witness in this case.

Further, by Estes' own admission in a published story he stated, "I was attempting to escape from something . . . trying to be something I was not." (Copies of first two pages of 11 page story attached.) The story relates that this was his way of life for over 25 years until committed to prison this year.

Also, in the same context, where perjury and half-truths are a way of life there is no mention of an important matter. This deposition in the Wayne County suit, states that in early 1974 George Harland, on behalf of Don Hudler (another witness), gave the President of DCI an ultimatum. Sauer was told that if he wanted to keep the Cadillac business he had to bounce Halloran and hire Tom Estes. (Sarole Affidavit in Appendix)

None of the above seems to jibe with the response statement "that Appellant had already been terminated before Tom Estes was ever contacted for his job."

It appears that playing both ends against the middle is permissible in the legal profession. While

responding in this case, they were requesting dismissal by accellerated judgment in the unsimilar Wayne County suit. This involves DCI, Sauer, G.M., Estes, Hudler and Harland. It includes conspiracy and other complaints. The suit was filed in 1977 at the suggestion of Federal Judge Churchill who could not join additional defendants in the Federal suit because of residency.

The motion for dismissal was granted on December 10, 1982, necessitating a motion for a re-hearing. Obviously, they are trying to obviate our having our day in any court. While, at the same time increasing their fees and delaying justice.

To avoid prolixity, I will end this with a quote from Michigan Supreme Court Justice Mary Coleman, who is soon to retire. She said, "The law is supposed to make sense. If it doesn't something is wrong."

Sincerely,

/s/Jerry Halloran

Jerry Halloran
18425 South Drive
Apt. 156
Southfield, MI 48076

cc: Mr. Gowing

(Except as noted - attachments indicated not in Appendix)

The 14th floor of the G.M. building being where the General Motors executive offices are.

4. That during said conversation there was no criticism of the performance of Jerry Halloran in representing Display Corporation International at Cadillac.

5. This conversation with George Harland took place while I was account supervisor on the Cadillac account with D'Arcy McManus Advertising Agency. My responsibilities at that time were to call on George Harland regarding servicing of the Cadillac advertising account. I did this with regular frequency daily.

/s/ ROBERT G. SAROLE

Subscribed and sworn to before me
this 3rd day of February, 1981

/s/ Linda Marie Siegert, Notary Public
Macomb County, Michigan
Acting in Oakland County
My Commission expires: 10/21/81

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JERRY HALLORAN,

Plaintiff,

V.

Civil Action No. 76-71523

HON. ANNA DIGGS-TAYLOR

DISPLAY CORPORATION INTERNATIONAL, a Wisconsin corporation, and LLOYD A. SAUER, Jointly and Severally,

Defendants.
_____/

SPECIAL VERDICT

Question No. 1: Did Jerry Halloran sell the 1976 Cadillac Merchandising Aid Program?

Answer: _____
Yes or No

If you answer question No. 1 "No", then answer this question:

Question No. 2: Was Jerry Halloran the procuring cause of Display Corporation being awarded the 1976 Cadillac Merchandising Aids Program?

Answer: _____
Yes or No

If you answer either question No. 1 or question No. 2 "Yes", then answer this question:

Question No. 3: What sum of money equals the commission which Jerry Halloran should have been paid on the 1976 Cadillac Merchandising Aids Program?

$_____

Question No. 4: Did Display Corporation prevent Jerry Halloran from obtaining employment in the point-of-purchase display business for the year commencing January 28, 1975?

Answer: _____
Yes or No

Question No. 5: What sum of money equals the financial loss to Jerry Halloran caused by his being prevented from employment in the point-of-purchase display business for the year commencing January 28, 1975?

$_____

Dated at Detroit, Michigan, this _____ day of April, 1980.

_____
Forepoerson

CONCLUSION/HUMAN SIDE

I respectfully request the opportunity for a new trial before an enlightened jury. Also, knowing that the law of this great country should not restrict itself to constitutional provisions, treaties, statutes, ordinances and regulations, I would like to, with your indulgence, concisely present the human side of this litigation.

Suffering through an experience like this is not easy. I was within a few weeks of my 49th birthday when I was terminated without stated reason or any severance pay. This, after almost 23 years with the same company with words of praise for my work, from clients and company, still echoing in my ears. I had planned and pledged to continue my work career with Display Corporation. Its President was fully aware of this as each year from the late sixties I reminded him in writing on my anniversary date August 11 (started in 1952).

Prior to 1952 I was busy growing up in my home-town of Cincinnati. Born at Bethesda Hospital on 1 February, 1926. After grade school at SS Peter and Paul in Reading and High School at Roger Bacon in St. Bernard, I served in Naval Communications in the Pacific during and after WWII.

After a BSC in Philosophy and Psychology at Xavier University I joined the Hedepohl Brewing

Company as Advertising Manager. The Korean War saw me called back to service from an inactive reserve status. Served on the staff of the Commander Middle East Force handling Public Information. In early 1952 back to Hudepohl before moving to Chicago in August 1952 to join Display Corporation.

Married in 1955 to Patricia Steele. We had two children in Wisconsin and two after moving to Michigan in 1961, to handle the company's General Motors business.

After my termination in 1975, our oldest son Michael, then just 16, said, "Does this mean we will be instant poor?" We told him "No." But the way this has dragged on with no settlement plus a bad economic climate trying to live, and maintain a business, the answer may be "Long Term Poor."

We had to sell our home, we needed the money. We used up our retirement fund and other investment proceeds. Borrowed to the maximum on my insurance. High interest payments forced me to cancel it. Plus, digging deeply into savings.

Only in 1982, were my wife and I able to get a token salary from the business. About $5,000.00 total. Then we had to re-invest almost that amount back into the business. We are currently living in a two-bedroom apartment and still supporting about 2.5 children. One bright spot, the apartment is a three-minute walk to the office. Yet, Pat cannot

walk the distance comfortably because of worsening rheumatoid arthritis developed 1977-78. One of her doctors told her that stress can cause this.

In November, 1982, an article in the Detroit Free Press stated that Tom Estes was putting his six-bedroom house up for sale for $500,000. It added that his estranged wife, Sue, had been living there. A half million is a far cry from the $120,000.00 we got for our six-bedroom home. But then, I would rather be in a two-bedroom rented apartment than serving time in prison for fraud and forgery even though it is at Eglin AFB.

It's been said that the law is supposed to make sense and if it doesn't something is wrong. I'm looking for the sense in this matter from both a legal and human side.

Respectfully submitted,

Jerry Halloran

JERRY HALLORAN
Petitioner Pro Se

Residence:

18425 South Road, #156
Southfield, Michigan 48076

EQUAL JUSTICE UNDER LAW

These words, written above the main entrance to the Supreme Court Building, express the ultimate responsibility of the Supreme Court of the United States. The Court is the highest tribunal in the Nation for all cases and controversies arising under the Constitution or the laws of the United States. As the final arbiter of the law, the Court is charged with ensuring the American people the promise of equal justice under law and, thereby, also functions as guardian and interpreter of the Constitution.